

arguments. He may expedite such consideration by notifying the Commissioner when he does not intend to file a reply to the Solicitor's report.

(d) After a hearing on the appeal, if a hearing was requested, or after expiration of the period for the inventor's reply to the Solicitor's report, if no hearing is set, the Commissioner shall issue a decision on the matter, which decision shall be final after the period for asking reconsideration expires or on the date that a decision on a petition for reconsideration is finally disposed of. Any request for reconsideration or modification of the decision must be filed within 30 days from the date of the original decision (or within such an extension thereof as may be set by the Commissioner before the original period expires). The Commissioner's decision shall be made after consideration of the statements of fact in the employee's appeal, the Solicitor's report, and the employee's reply, but the Commissioner, at his discretion and with due respect to the rights and convenience of the inventor and the Solicitor, may call for further statements on specific questions of fact or may request additional evidence in the form of affidavits or depositions on specific facts in dispute.

#### § 6.7 Domestic patent protection.

(a) The Solicitor, upon determining that an invention coming within the scope of § 6.5(b) (1) or (2) has been made, shall thereupon determine whether patent protection will be sought in the United States by the Department for such invention. A controversy over the respective rights of the Government and of the inventor in any case shall not delay the taking of the actions provided for in this section. In cases coming within the scope of § 6.5(b)(2), action by the Department looking toward such patent protection shall be contingent upon the consent of the inventor.

(b) Where there is a dispute as to whether paragraph (b) (1) or (2) of § 6.5 applies in determining the respective rights of the Government and of an employee in and to any invention, the Solicitor will determine whether patent protection will be sought in the United States pending the Commissioner's decision on the dispute, and, if he deter-

mines that an application for patent should be filed, he will take such rights as are specified in § 6.5(b)(2), but this shall be without prejudice to acquiring the rights specified in § 6.5(b)(1) should the Commissioner so decide.

(c) Where the Solicitor has determined to leave title to an invention with an employee under § 6.5(b)(2), the Solicitor will, upon the filing of an application for patent and pending review of the determination by the Commissioner, take the rights specified in that paragraph, without prejudice to the subsequent acquisition by the Government of the rights specified in § 6.5(b)(1) should the Commissioner so decide.

(d) In the event that the Solicitor determines that an application for patent will not be filed on an invention made under the circumstances specified in § 6.5(b)(1) giving the United States the right to title thereto, the Solicitor shall subject to considerations of national security, or public health, safety, or welfare, report to the Commissioner promptly upon making such determination, the following information concerning the invention:

(1) Description of the invention in sufficient detail to permit a satisfactory review;

(2) Name of the inventor and his employment status;

(3) Statement of the Solicitor's determination and reasons therefor.

The Commissioner, may, if he determines that the interest of the Government so requires and subject to considerations of national security, or public health safety, or welfare, bring the invention to the attention of any Government agency to whose activities the invention may be pertinent, or cause the invention to be fully disclosed by publication thereof.

#### § 6.8 Foreign filing.

(a) *By Government.* (1) In every case where the employee has indicated pursuant to § 6.2(d)(10), his willingness to assign the domestic patent rights in the invention to the Government, or where it has been determined pursuant to § 6.5 that the Government shall obtain the entire domestic patent rights, the Government shall reserve an option to acquire assignment of all foreign

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rights including the rights to file foreign patent applications or otherwise to seek protection abroad on the invention.

(2) The Government's option shall lapse as regards any foreign country:

(i) When the Solicitor determines after consultation with the agency most directly concerned, not to cause an application to be filed in said foreign country or otherwise to seek protection of the invention, as by publication;

(ii) When the Solicitor fails to take action to seek protection of the invention in said foreign country (a) within six months of the filing of an application for a United States patent on the invention, or (b) within six months of declassification of an invention previously under a security classification, whichever is later.

(b) *By Employee.* (1) No Department employee shall file or cause to be filed an application for patent in any foreign country on any invention in which the Government has acquired the entire (foreign and domestic) patent rights, or holds an unexpired option to acquire the patent rights in said foreign country, or take any steps which would preclude the filing of an application by or on behalf of the Government.

(2) An employee may file in any foreign country where the Government has not exercised its option acquired pursuant to § 6.2(d)(10), to do so, or determines not to do so.

(3) The determination or failure to act as set forth in § 6.8(a)(2) shall constitute a decision by the Government to leave the foreign patent rights to the invention in the employee, subject to a nonexclusive, irrevocable, royalty-free license to the Government in any patent which may issue thereon in any foreign country, including the power to issue sublicenses for governmental purposes or in furtherance of the foreign policies of the Government or both.

### **§ 6.9 Publication and public use of invention before patent application is filed.**

(a) Publication or public use of an invention constitutes a statutory bar to the granting of a patent for the invention unless a patent application is filed within one year of the date of such

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publication or public use. In order to preserve rights in unpatented inventions, it shall be the duty of the inventor, or of his supervisor if the inventor is not available to make such report, to report forthwith to the Solicitor any publication or use (other than experimental) of an invention, irrespective of whether an invention report has previously been filed. If an invention report has not been filed, such a report, including information concerning the public use or publication, shall be filed at once. If an invention is disclosed to any person who is not employed by the Department or working in cooperation with the Department upon that invention, a record shall be kept of the date and extent of the disclosure, the name and address of the person to whom the disclosure was made, and the purpose of the disclosure.

(b) No description, specification, plan, or drawing of any unpatented invention upon which a patent application is likely to be filed shall be published, nor shall any written description, specification, plan, or drawing of such invention be furnished to anyone other than an employee of the Department or a person working in cooperation with the Department upon that invention, unless the Solicitor is of the opinion that the interests of the Government will not be prejudiced by such action. If any publication disclosing the invention, not previously approved by the Solicitor, comes to the attention of the inventor or his supervisor, it shall be the duty of such person to report such publication to the Solicitor.

### **§ 6.10 Publicity concerning the invention after patent application is filed.**

In order that the public may obtain the greatest possible benefit from inventions in which the Secretary has transferable interests, inventions assigned to the Secretary upon which patent applications have been filed shall be publicized as widely as possible, within limitations of authority, by the Department, by the originating agency, by the division in which the inventor is employed, and by the inventor himself in his contacts with industries in which the invention is or may